Quarterly Report

OF THE

ATTORNEY GENERAL

OF

ALABAMA

FOR THE PERIOD

FROM JANUARY 1, 1978
THROUGH MARCH 31, 1978

WILLIAM J. BAXLEY, Attorney General

VOLUME 170

SKINNER PRINTING COMPANY
INDUSTRIAL TERMINAL
MONTGOMERY, ALABAMA

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QUARTERLY REPORT

of the

ATTORNEY GENERAL

of

ALABAMA

For the Period

From January 1, 1978

Through March 31, 1978

TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS OF ALABAMA:

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from January 1, 1978 through March 31, 1978, is published in compliance with the provisions of Title 55, Section 228 Code of Alabama, 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy district attorney of his county. The section also requires that I send a copy of this report to each district attorney and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, County, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

WILLIAM J. BAXLEY

Attorney General

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January 4, 1978

Honorable Julian Bland
District Attorney
Thirty-Second Judicial Circuit
Court House
Cullman, AL 35055

Truck Weight Law—Roads and Highways—Agriculture
Truck weight limits discussed.

Opinion by Assistant Atty. Gen. Brunson

Dear Mr. Bland:

Your letter requesting an opinion of this office regarding truck weight laws has been received and reads as follows:

> "Paragraph 4(J) of Section 32-9-20 of the Code of Alabama 1975 provides as follows:
>
> " 'Two and three axle vehicle being used exclusively for the purpose of transporting agriculture commodities or products to and from a farm and for agricultural purposes relating to the operation and maintenance of a farm by any farmer, custom harvester or husbandman may not be made to conform to the axle requirements of paragraph (4)a of this section or the gross weight requirements of paragraph (4)c of this section.'
>
> "We will appreciate an official opinion by your office on the following question:
>
> "Does Paragraph (4)J of Section 32-9-20 of the Code of Alabama 1975 permit vehicles, which come under this paragraph, to travel on the Interstate Highway System of Alabama without conforming to the gross weight requirements of Paragraph (4)a and (4)c, notwithstanding the sentence in Paragraph (4)c which reads, 'Nothing in this section shall be construed as permitting size or weight limits on the national system of interstate and defense highways in this state in excess of those permitted under 23 U. S. C. section 127'?"

It is the opinion of this office and you are hereby advised that Paragraph 4(c) of § 32-9-20, **Code of Alabama, 1975,** makes weight limits on the national system of interstate and defense highways within this State conform to Federal weight limits on those highway systems.

Therefore, the exemption granted by Paragraph 4(J), supra to which you refer, would not be applicable to said vehicle when traveling on interstate or defense highways.

It is hoped this opinion satisfactorily answers your request.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

January 12, 1978

Honorable C. F. Ballenger
Mayor
City of Sumiton
P. O. Box 10
Sumiton, Alabama 35148

Labor Unions

Municipalities

Status of labor unions for municipal employees discussed.

Opinion by Asst. Atty. Gen. Sumner.

Dear Mayor Ballenger:

Your request for an advisory opinion of the Attorney General, dated December 5, 1977, has been received. In your request, you specifically ask the following questions:

1. Can employees of city government legally strike against city?
2. Is it legal for city government to enter into union work agreement for employees?
3. What percentage of employees is required to organize a union?
4. Is it legal for employees to become members of a union organization and request their dues for membership be withheld by payroll deducation?
5. Our Water and Gas Boards are separate corporate boards of the city, and if legal for the city to enter into work agreements for employees, can the city government execute agreement which would effect the employees of these boards (which are separate entities); or would it be necessary for the boards to execute their own contract agreement?

Your first question is answered in the negative. The Alabama Supreme Court has held that public employees may not strike. Therefore, strikes by public employees are prohibited.

Your second question requires more than a simple yes or no answer. The Supreme Court of Alabama has recently held that public agencies cannot enter into binding bargaining agreements with union members without express constitutional or legislative authority to do so. These cases are: **International Union of Operating Engineers v. Water Works Board of the City of Birmingham,** 276 Ala. 462, 163 So.2d 619, and **Nichols v. Bolding,** 277 So.2d 868. This does not mean that the Mayor and the City Council cannot meet and confer with the members of such union. It does not mean that agreements cannot be reached and carried out as a result of these meetings. Certainly it would be ridiculous for this office or anyone else to say that a Mayor and City Council cannot sit down with city employees and discuss matters of mutual concern. The Supreme Court decisions merely say that bargaining agreements reached between public agencies and public employee unions are not enforceable in a court of law. In other words, such an agreement would be terminable at will by the City or the union members.

In answer to your third question, generally speaking, a majority of the employees of a public agency or city would be required to form a representative union of those employees.

Your fourth question is answered in the affirmative. Public employees have a constitutional right to join a union or not join a union or to participate freely in union activities. Furthermore, the City may, in its discretion, check-off union dues by payroll deduction. This office has consistently held that cities may check-off union dues and we have rendered numerous opinions to that effect.

Your fifth question will require some discussion. If these boards are indeed separate entities which do not depend on the Mayor and City Council for day-to-day guidance, they should reach their own agreements with their employees. Otherwise, the agreements reached by the city and its employees could include the employees of the Water and Gas Boards. As a practical matter, it is my opinion that these boards should deal with their employees separately.

I trust that this discussion will adequately answer the request of the City of Sumiton. In the event that you have any questions regarding this opinion or if this office can assist you in any way in the future, please let me know.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

January 13, 1978

Mr. Allen L. Tapley
Administrative Director of Courts
Department of Court Management
State of Alabama
817 South Court Street
Montgomery, Alabama 36130

Judicial Article—Costs and Fees—Courts—Court Management, Department of

Court fees discussed.

Opinion by Assistant Attorney General Stephens

Dear Mr. Tapley:

Your recent letter raised several questions concerning costs to be charged in court actions here in the State of Alabama and possibly conflicting provisions about these costs contained in the New Code of Alabama 1975. Act No. 1205, Acts of Alabama 1975, codified in Title 12 of the Code of Alabama 1975 enacted a uniform fee schedule for the State court system and provided, in Section 12-19-20, that the fees prescribed therein were to be exclusive of all other fees. However, the Code of Alabama 1975 contains other provisions which prescribe fees to be charged by the courts for various purposes. As a consequence, you have asked for an opinion on the following general question:

> ". . . . Our question for your consideration, stated generally, is whether the cost schedule contained within Act No. 1205 and incorporated into the 1975 **Code of Alabama** supersedes those cost provisions incorporated into the 1975 **Code** which were previously contained within the 1940 **Code of Alabama,** recompiled 1958?"

I do not believe that it is possible to, or wise to attempt to, answer this general question. Act No. 1205 undoubtedly supersedes some of the previous cost provisions contained in the 1940 Code of Alabama but it is also possible that some of the cost provisions brought forward into the Code of Alabama 1975 may not be superseded by Act No. 1205. I believe that each such provision must be considered individually and since your letter goes on to state your questions more specifically, I believe it would be best to answer the specific questions. Your letter states:

> "(1) **Code of Alabama** 1975, Section 6-6-462 provides for a garnishee answer fee of $3.00 per day plus mileage, to be taxed and collected as other costs. Is this section in conflict with Section 12-19-20 and, if so, which prevails?
> "(2) **Code of Alabama** 1975, Section 12-17-277 provides that

there shall be collected as costs and payable to the county, a fee of $5.00 per day for each day a court reporter shall be engaged in reporting a case. Is this section in conflict with Section 12-19-20 and, if so, which prevails?

"(3) **Code of Alabama** 1975, Section 25-5-56 provides for a court cost of $2.00 whenever the court is called upon to approve a settlement reached by parties in a workmen's compensation dispute not before the court. Act No. 1205 did not specifically address workmen's compensation cases. Is this section in conflict with Section 12-19-20 and, if so, which prevails?"

It is my opinion that Section 6-6-462 is in conflict with Section 12-19-20 and Section 12-19-75, which provides a fee for garnishment proceedings, and that Section 12-19-20 prevails.

It is also my opinion that Section 12-17-277 is in conflict with Section 12-19-20 and that Section 12-19-20 again prevails.

It is my opinion that Section 25-5-56 is not in conflict with Section 12-19-20. The fee provided for by Section 25-5-56 is for the court's review and approval of workmen's compensation settlements when the dispute is not otherwise formally before the court. This settlement approval does not constitute a civil action and is not otherwise covered by Act No. 1205.

You have further asked whether Code of Alabama 1975, Section 13-2-75, which provides a fine for defacing property to be given to the owner of the property, is in conflict with Section 12-19-152 which provides that fines collected in misdemeanor and felony cases shall be remitted to the State General Fund. It is my opinion that these sections are not in conflict. The purpose of Section 12-19-152 is obviously to provide that criminal fines be remitted to the State General Fund rather than to the counties or municipalities. Section 13-2-5 remains valid although it will, of course, be superseded by the new criminal code when it becomes effective.

I hope and trust that this sufficiently answers your question.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

January 17, 1978

Honorable Jimmy W. Holley
House of Representatives
Coffee County
Elba, Alabama 36323

COFFEE COUNTY—REAPPRAISAL—TAXATION

Discrimination that may result from the application of values obtained in the reappraisal program to the assessment of taxes is less odious than the discrimination that had obtained prior to the reappraisal project. Taxpayers in a county in which the reappraisal project is complete are now paying their lawful taxes.

Opinion by Asst. Atty. General Davis.

Dear Mr. Holley:

The first two questions posed in your letter of January 4, 1978, may be paraphrased as follows: (1) Does the requirement that property taxes based upon the values established in the reappraisal program be paid by the taxpayers of one county prior to completion of the program in other counties discriminate against the taxpayers of the first named county; and (2) does the early completion of the reappraisal project with attendant earlier payment of taxes in one county violate the spirit of the opinion of the Federal Court in **Weissinger, et al. v. Boswell, et al.**, 330 F.Supp. 615, 1971?

These questions have been brought up before the Weissinger panel. Subsequently, the Court entered an order which included the following language:

> "Where the property of a county has been appraised at its fair and reasonable market value as required by Tit. 51, § 927, Code of Alabama (Recompiled 1958, Cumulative Pocket Part), and by this Court, to the reasonable satisfaction of the Department of Revenue, this fact shall be certified by the Commissioner of Revenue, and such values shall be the basis for assessments for ad valorem taxes by such county for the tax year which begins in the calendar year in which the appraisal program in the county is so certified by the Commissioner of Revenue. Provided, however, in any event, each county of the State of Alabama shall collect taxes for the tax year commencing on October 1, 1978, based upon appraisal at its fair and reasonable market value, certified by the Commissioner of Revenue as aforesaid."

In the original opinion rendered by the Weissinger Court on June 29, 1971, and reported at 330 F.Supp. 615, the Court, after discussing the range of assessments from county to county (high 26.8% of fair market value, Jefferson County; low 6,7% of fair market value, Hale County) held on page 624:

> "Being unable to find any legitimate state objective to be served by the vast disparity which presently exists in Alabama's ad valorem tax program, this Court is forced to con-

clude that the variation in percentages, as between geographical areas of the state, results in the arbitrary classification of taxable property and therefore violates the Due Process and Equal Protection clauses of the Fourteenth Amendment."

The Court has indicated orally, and by inference in the two opinions quoted from above that it feels that any discrimination which may result from the application of the new values to the assessment of taxes is less odious than that discrimination which had obtained prior to the reappraisal project. Furthermore, the taxpayers in a county in which reappraisal is complete are now paying their lawful taxes, whereas for years such taxpayers had not been required to pay taxes at the level set forth in the statute.

As to the third question in your letter, this office is already participating before the Court in this matter and is attempting to alleviate the existing disparities by encouraging the prompt completion of the project throughout the State.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

January 24, 1978

Honorable J. Dawson Britton
Judge, District Court
Jefferson County
Bessemer Division
Jefferson County Courthouse
Bessemer, Alabama 35020

Alabama Rules of Civil Procedure—Courts—Bonds
Supersedeas bond not required on appeal from the district court to the circuit court.

Opinion by Assistant Attorney General Knight.

Dear Judge Britton:

I am reply to your request for an opinion from this office concerning the payment of a supersedeas bond on appeal from the district court to the circuit court.

You posed the following questions:

> Is a supersedeas bond in twice the amount of the judgment required to be filed with the Clerk in an appeal from the District Court to the Circuit Court to stay execution on the judgment pending appeal?

Code of Alabama 1975, Section 12-12-73 provides:

> "A supersedeas bond in twice the amount of the judgment shall be required of the appellant in any civil appeal to the circuit court. Upon the filing of such supersedeas bond and the timely filing of a notice of appeal, execution of the judgment shall be stayed pending final judgment on appeal."

This Section originated in the Judicial Article Implementation Act enacted in 1975, and which became effective January 16, 1977.

In November, 1976 the Supreme Court of Alabama adopted the District Court Civil rules and made them part of the Alabama Rules of Civil Procedure. January 16, 1977 was also established as the effective date of these rules. Rule 62(dc)(5) which modifies the general civil rule states:

> "the provision for a supersedeas bond in Rule 62(d) is deleted and Rule 62(d) is modified so as to require only a bond for costs or affidavit of substantial hardship, approved by the court, in lieu of said bond."

Thus, a conflict between the above rule and **Code of Alabama 1975,** Section 12-12-73 appears.

The ruling making power of the Supreme Court was given a constitutional basis in the new Judicial Article in that Section 6.11 of Amendment No. 328 of the Constitution of Alabama 1901 provides:

> "The Supreme Court shall make and promulgate rules governing the administration of all courts and rules governing practice and procedure in all courts." . . .

This Section also provides that any rule so promulgated could be **changed** by a general act of statewide application. Thus, it is arguable that the legislature no longer has power to promulgate rules of court procedure.

In **Schweitzer v. Esco,** 340 So. 2d 19 (Ala. 1976), the Supreme Court upheld the requirement of an appeal bond to perfect an appeal from the former General Sessions Court to the Circuit Court. In a special concurring opinion it was stated that this bond was upheld because cases could be automatically transferred to the circuit court from the General Sessions Court upon any party's request for a trial by jury. Since there is no automatic transfer of cases of cases from the district court and because there is no trial by jury in that court, the concurring opinion found the supersedeas bond requirement of **Code of Alabama 1975,** Section 12-12-73 constitutionally suspect.

Because of the arguably limited power placed on the legislature to change court rules formulated by the Supreme Court and because of the constitutionally suspect nature of the bond, it is the opinion of this office that the elimination in Rule 62(dc)(5), Alabama Rules of

Civil Procedure of the requirement of supersedeas bond on appeals from the district court to the circuit court prevails over **Code of Alabama 1975,** Section 12-12-73 requiring such a bond. Therefore, a supersedeas bond is not to be required on appeals from the district court to the circuit court.

If our office can be of further assistance, please do not hesitate to contact us.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

February 1, 1978

Dr. Norman J. Berger
Mobile Board of School Commissioners
Box 1327
Mobile, Alabama 36601

County Boards of Education—Public Records—Meetings
County School board letters and documents are public records pursuant to **Code of Alabama,** §41-13-1

Business transacted at special meeting not called in accordance with county board of education's rule thereon, is voidable.

Opinion by Assistant Attorneys General Knight and Hatcher

Dear Dr. Berger:

The Attorney General received your request for an opinion from this office concerning the records and meetings of the Board of School Commissioners of Mobile County.

You asked the following questions:

"1. Are Mobile County Public School System letters, documents, etc. classified as public records as defined in **Code of Alabama 1975,** §41-13-1?

"2. Is a special meeting of the Board of School Commissioners of Mobile County legal, and is any business transacted in such a meeting legal, if the policy of the Board that in order for any special meeting to be called, prior notice of its time, place and subject matter must be given to each Board member, is not met?"

As to your first inquiry, **Code of Alabama 1975,** §41-13-1 defines public records as:

> "As used in this article, the term "public records" shall include all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transactions of public business and shall also include any record authorized to be made by any law of this state belonging or pertaining to any court of record or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer. (Acts 1945, No. 293, p. 486, §1.)"

A county board of education or other local school organization is an agency, subdivision and instrumentality of the state. **County Board of Education v. Slaughter,** 230 Ala. 229; **Turk v. County Board of Education,** 222 Ala. 177. Thus, "all written, typed or printed books, papers, letters, and maps made or received in pursuance of law" by the officers of the Mobile County Board of School Commissioners and held in the custody of the County Superintendent of Education, as Secretary of the Board, would be public records under **Code of Alabama 1975,** §41-13-1 in that such board is a "subdivision of the government" as regarded therein.

As to your second inquiry, **Code of Alabama 1975,** §16-8-4 provides:

> "The county board of education shall hold an annual meeting each year on the third Tuesday in November. At this meeting the board shall elect each year one of its members to serve as president and one to serve as vice-president. Other regular meetings shall be held on the last Friday of February, May and September, and such special meetings may be held, at such place as the duties and the business of the board may require. The rules generally adopted by deliberative bodies for their government shall be observed by the county board of education. No motion or resolution shall be declared adopted without the concurrence of the majority of the whole board."

Pursuant to the above section, county school board rules regarding the procedure by which special meetings are called, held, and conducted are controlling when their legality is in question.

In your opinion request, you cited the following as the rule adopted by your Board pertaining to special meetings:

> " 'Special meetings of the Board may be held whenever called by the President or upon written request of three or more members of the Board. Written notice setting forth the object for which said special meeting is called shall be disseminated to each member of the Board.' "

Any business transacted at a special meeting held by your Board is voidable if said meeting was not called in the manner prescribed by

the above-quoted rule. Proceedings at law, or in equity, may be commenced to prevent the implementation of policies adopted in contravention of said rule.

We hope that this opinion sufficiently answers your inquiries. If we may be of any further assistance to you, please let us know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

February 14, 1978

Representative Marilyn Quarles
House of Representatives
P. O. Box 214
Springville, Alabama 35146

St. Clair County—Roads, Highways, and Bridges—Legislation

Bill allowing county to do work on private driveways is unconstitutional.

Opinion by Assistant Attorney General Knight.

Dear Representative Quarles:

I am replying to your request for an opinion from the Attorney General as to the constitutionality of certain proposed legislation. The proposed bill would authorize the St. Clair County Commission to use its road equipment on private driveways within the county.

It is the opinion of this office that the proposed legislative bill being discussed herein is unconstitutional in that it violates Section 94 of the Constitution of Alabama 1901.

Section 94 prohibits a county, municipality or subdivision of the State from granting money or a thing of value in aid of an individual, association or corporation.

This office has concluded on numerous occasions that to allow a county or city to do work on private driveways or roads is prohibited by Section 94.

If our office can be of further assistance, please do not hesitate to contact us.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

February 17, 1978

Honorable Fred E. Zeigler
State Comptroller
State of Alabama
Department of Finance
Division of Control and Accounts
Montgomery, Alabama 36130

VOTERS' REIDENTIFICATION—COST OF ADVERTISING NOTICES—MOBILE COUNTY

Under Act No. 36 of the First Special Session of the 1965 Alabama Legislature, the governing body of the county, and not the State, is liable for the cost of advertising during the process of the reidentification of voters as mandated by Act No. 36, supra.

Opinion by Assistant Attorney General Ward.

Dear Mr. Zeigler:

This office is in receipt of your letter of April 28, 1977 in which you requested an opinion concerning the payment of advertising during the process of reidentification of voters pursuant to Act No. 36, First Special Session of 1965 of the Alabama Legislature. Specifically, you ask:

> Is the State liable for the payment of this advertising cost (the cost for publication in the newspaper of those individuals who have not reidentified themselves, with accompanying warning) when Act No. 36, requiring the reidentification of registered voters in the county and providing in Section 7 of this Act that the governing board of the county shall pay for the advertising required by this Act?

In my opinion, the governing body of the county, and not the State, is responsible and liable for these advertising costs.

The language of Act No. 36 clearly supports the conclusion that the governing body of the county is liable for the cost of advertising necessary under the provisions of the Act. Section 7 of Act No. 36 provides:

> The governing body of each county shall provide the Board of Registrars and the Judge of Probate with the supplies, equipment, and clerical help necessary for reidentifying **and shall pay for advertising.** (Emphasis added)

That language could not be clearer.

Moreover, Act No. 36 is strictly local in nature. It applies only to counties with a population of not less than 300,000 or more than

500,000. Consequently, the obligation for the payment of advertising is local in nature, i.e., on the governing body of the county.

Further, the conclusion reached herein is not inconsistent with Code of Alabama 1975, §§17-4-13, 17-4-60 and 17-4-62. Those provisions are of statewide application and refer specifically to the process and procedure of purging voter lists. On the other hand, Act No. 36, **supra**, not only applies to counties with a population of not less than 300,000 or more than 500,000 but concerns itself solely with the process and procedure of reidentification of voters, not the purging of voter lists. Therefore, Act No. 36, **supra**, would be controlling on the issue of who is responsible for paying the costs of advertising involved in the process and procedure of reidentification of voters in counties with a population of not less than 300,000 or more than 500,000.

Nor is the conclusion reached herein inconsistent with the opinion of this office to Thomas A. Jernigan, Chairman, Montgomery County Board of Registrars, June 22, 1976. That opinion dealt with the cost of advertising pursuant to the statutes described above, i.e. §17-4-13, 17-4-60, and 17-4-62. Consequently, that opinion would be inapplicable to instant conclusion for the same reasons stated above. Moreover, Montgomery County would not come within the population criteria of Act No. 36. Consequently, there costs for advertising would be governed not by Act No. 36, but by §§ 17-4-13, 17-4-60, and 17-4-62, supra.

I trust this satisfactorily answers your question. If not, please do not hesitate to let me know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

February 24, 1978

Honorable Jerry C. Porch
Guinn, Bouldin and Porch
Attorneys at Law
Post Office Box 940
Russellville, Alabama 35653

Alabama Alcoholic Beverage Control Board—Alcoholic Beverages

It would be legal under Title 29, Section 242(1), Code of Alabama, 1940, as amended, for the City of Russellville to enter into an arrangement whereby they would receive payment from the Alabama Alcoholic Beverage Control Board for the storage of confiscated liquors and beverages in the Russellville City Jail, which said

liquors and beverages were not seized or confiscated by any law enforcement officers of the City of Russellville. Such monies can be used to purchase equipment for the police department.

Opinion by Assistant Attorney General Little.

Dear Mr. Porch:

This will acknowledge your letter of April 12, 1977, in which you request the following opinion of this office:

"This law firm represents the City of Russellville, Alabama, and we have been requested by our Mayor, Dr. John D. Burns, to obtain the opinion of your office concerning questions which have arisen in our City related to the storage of confiscated liquors and beverages.

"Members of our City Council have been approached by our local ABC agents who state that the state will pay to the City of Russellville an amount equal to one-half of the revenues produced by the deposit of confiscated liquors and beverages with the Alabama Alcoholic Beverage Control Board for resale. In return for this revenue, the City of Russellville is to furnish storage space in the city jail for confiscated liquors and beverages to be placed there by the Alcoholic Beverage Control agents. In regard to the above facts we would like to ask for your opinion on the following questions:

"1. Would it be legal for the City of Russellville to enter into an arrangement whereby they would be received payment from the Alcoholic Beverage Control Board for the storage of confiscated liquors and beverages in the Russellville City Jail, even though the said confiscated liquors and beverages were not confiscated by any law enforcement officers of the City of Russellville?

"2. Would such an arrangement between the City of Russellville and the Alabama Alcoholic Beverage Control Board violate any provisions of Title 29, Section 242(1) Code of Alabama, 1940, as amended?

"3. If the above questions 1 and 2 were answered in the affirmative, would it be legal for the City of Russellville, acting by and through its Mayor and Council, to allocate all such revenues received from the Alabama Alcoholic Beverage Control Board to the sole use of the police department of the City of Russellville."

In answer to your first two questions, an arrangement, as described in your request, between the Alabama Alcoholic Beverage Control Board and the City of Russellville would not be in violation of Title 29, Section 242(1), Code of Alabama, 1940, Recompiled 1958, as amended,

or any other statute as contained in the Alabama Alcoholic Beverage Control Board Act.

Title 29, Section 242(1), Code of Alabama, 1940, Recompiled 1958, as amended, pertains to the sale of alcoholic beverages and not to the storage of confiscated liquors and beverages. Therefore, the Alcoholic Beverage Control Board may pay the City of Russellville for storage space for confiscated liquors.

Question Number 3 is answered in the affirmative. It would be legal for the City of Russellville, acting by and through its Mayor and Council, to allocate these revenues for storage received from the Alcoholic Beverage Control Board to the sole use of the police department for the purchase of equipment.

We trust this satisfactorily answers your inquiry. If this office can be of further assistance, please feel free to contact us.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

February 27, 1978

Honorable John L. Napier
Houston County Revenue Commissioner
P. O. Box 6406
Dothan, Alabama 36301

AD VALOREM TAXES

Act No. 160, Third Special Session 1971, Alabama Legislature, does not change the normal procedure to be folfollowed by the tax assessor in assessing property under Act No. 344, Legislature of Alabama, Regular Session 1951.

Opinion by Assistant Attorney General Bowden.

Dear Mr. Napier:

In your request for an opinion dated February 16, 1978, you pose the following two questions:

"1. Does Act Number 160 (Third Special Session, 1971) require a property owner to re-assess his property because of reappraisal of property if there has been no improvements made or destroyed and the property owners property was previously assessed under the automatic system in compliance with Act Number 344, dated 1951?

"2. Does Act Number 160 (Third Special Session, 1971) re-

quire a home owner to reclaim their homestead exemption because of reappraisal of property, although they are entitled to this exemption in Accordance with Act Number 344, dated 1951?"

The answer to both of your questions is in the negative. As you know, Act No. 344, Legislature of Alabama, Regular Session 1951, now found in §40-7-1, **Code of Alabama 1975,** allows the tax assessor to assess property without the necessity of the taxpayer coming in and reassessing his property every year. Furthermore, the taxpayer is not required to reclaim his homestead exemption every year under Act No. 344. Since Act No. 160 places no new duties on the taxpayer of the type to which you refer, said Act would not change the normal procedure as provided in Act No. 344 which Houston County has been following for years.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

March 2, 1978

Honorable Allen L. Tapley
Administrative Director of Courts
Department of Court Management
817 South Court Street
Montgomery, Alabama 36103

Salaries—Court Reporters

Court Reporters as State employees are entitled to receive the cost of living increase contained in Act No. 601, Acts of Alabama 1977.

Opinion by Assistant Attorney General Petree.

Dear Mr. Tapley:

This office is in receipt of a request for an opinion from your predecessor in office, Mr. Charles Cameron, relating to whether court reporters are entitled to receive the cost of living increase granted to State employees by the provisions of Act No. 601, Acts of Alabama 1977.

The answer to that inquiry is in the affirmative. Court reporters are not State officers and therefore do not fall under the limitations of the Boutwell Amendment. Our opinion is that as State employees, court reporters were entitled to the benefits of Act 601 on its effective date.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

March 6, 1978

Al Tidwell, Esquire
P. O. Box 597
Hamilton, Alabama 35570

Municipalities—City Council—Officers and Offices.

Council member may be removed by impeachment only.

Discussion of filling a vacancy on city council.

Opinion by Assistant Attorney General Knight.

Dear Mr. Tidwell:

I am replying to your request for an opinion from the Attorney General concerning the following questions:

1. Does Section 11-43-60 o fthe Code of Alabama apply to appointed officials such that a councilman appointed to fill a vacancy on the council can be removed pursuant to said section by a two thirds vote of the council?

2. Can a council member be removed from office pursuant to a resolution of the council which provides that if a council member misses five consecutive regular council meetings without good cause, that such council member can be removed from the council by majority vote of the remaining members of the council? (See Section 11-43-51)

3. Is the appointment of an individual to fill a vacancy on the council an ordinance of resolution intended to be of a permanent nature such that said appointment is subject to the approval and/or veto of the mayor? (See Sections 11-45-3 and 11-45-4)

Each of your questions are to be answered in the negative.

Regarding questions 1 and 2, Section 175 of the Constitution of Alabama 1901 provides for removal of certain public officers by impeachment. Among these are municipal officers. The Supreme Court of Alabama ruled in **Nolen v. State ex rel Moore,** 118 Ala. 154, 24 So. 251 (1898) that where the Constitution provides the mode for removal of an officer by impeachment, it bars any other mode of removal. Therefore, a councilman may only be removed by impeachment as provided in Section 175. It is the opinion of this office that this applies to any councilman whether elected in a general election or appointed to fill a vacancy.

Code of Alabama 1975, Section 11-43-160 applies to those officers appointed in the several departments of a city.

Removal from office is not permitted under those penalties per-

mitted to be enforced by the council to compel the attendance of members as provided in **Code of Alabama 1975,** Section 11-43-51.

Turning to your final question, **Code of Alabama 1975,** Section 11-43-41 states that vacancies in the officers of councilman shall be filled by the council at the next regular meeting or any subsequent meeting and the person so elected shall hold office for the unexpired term. It is the opinion of the Attorney General that the election of a individual to fill a vacancy on the council is not done by enacting an ordinance or resolution of a permanent nature but merely by an election, the results of which are to be entered in the minutes of that meeting.

If our office can be of further assistance, please do not hesitate to contact us.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

March 14, 1978

Honorable Fred G. Collins
City Attorney
City of Mobile—Legal Department
P. O. Box 1827
Mobile, Alabama 36601

Competitive Bid Law—Contracts—Municipalities

Competitive bids must be taken in spite of past purchases from a particular vendor.

Opinion by Assistant Attorney General Lawley.

This letter is in response to your letter of recent date which is as follows:

> "The City of Mobile presently has a fleet of police motorcycles, each one of which is manufactured by Harley Davidson. The City of Mobile now finds it necessary to purchase some additional Mobile Police motorcycles and desires to take bids for the purchase of Harley Davidson Motorcycles only, for the following reasons:
>
> 1. The City's entire fleet of Police motorcycles is presently Harley Davidson.
>
> 2. The City does all of its own repair and maintenance work, and all tools and equipment presently owned by the City are designed to fit the Harley Davidson parts.

3. All of the Citv's mechanics and maintenance personnel for the motorcycles are factory trained bv Harley Davidson. In view of the above reasons we respectfully request vour official opinion on the right of the City to purchase only Harley Davidson motorcycles."

Purchases by municipalities in Alabama are governed by the provisions of the Competitive Bid Law found in Code of Alabama 1975, Section 41-16-50 through Section 41-16-63. Although the City of Mobile's mechanics and maintenance personnel may be trained to work on Harley Davidson brand motorcycles, it is my opinion that such training and past purchases from that vendor cannot justify a failure to take competitive bids for future purchases.

It is my opinion that the City of Mobile must purchase motorcycles through the Competitive Bid Law and must give every manufacturer of motorcycles the opportunity to bid on the proposed purchase contract. To rule otherwise in the aforementioned circumstances would, in my opinion, be an unfair restriction of competition and would be contrary to the intent of the Alabama Competitive Bid Law.

If I may be of any further assistance to you in this matter, please let me know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

March 15, 1978

Clarence Nance, Chairman
Madison County Board of Registrars
Box 392
Madison County Court House
Huntsville, Alabama 35801

BOARDS OF REGISTRARS—VOTER REGISTRATION—COLLEGES OR UNIVERSITIES

Code of Ala. 1975, §17-4-49 providing that boards of registrars must visit four year colleges or universities located in their county for the purpose of registering voters is mandatory; Subsection (C) of §17-4-49, supra, does not limit or interfere with other provisions of law, whether general or local, dealing with meetings of registrars.

Opinion by Assistant Attorney General Ward.

Dear Mr. Nance:

This office is in receipt of your letter of February 8, 1978 in which you requested an opinion concerning Code of Ala. 1975, §17-4-49 as it relates to Act No. 951 of the 1973 Regular Session of the Alabama Legislature. Specifically you ask: Does Act 769 (Code of Ala. 1975, §17-4-49) supercede Act No. 951 in respect to meetings of the board of registrars in Madison County? The answer to your question is in the affirmative.

Code of Ala. 1975, §17-4-49 requires boards of registrars in counties wherein four year colleges or universities are located, public or private, with an enrollment of 500 or more, to visit each said college or university at least once between March 1 and April 30 of each year for the purpose of registering voters. The section is mandatory, not discretionary. It states that boards **shall** perform the duty described above. Code of Ala. 1975, §17-4-49(a).

Act 951 provides times that the Madison County Board of Registrars shall meet for the purpose of registering voters. Subsection (C) of §17-4-49, supra, provides that the provisions of that law shall not be construed to repeal or supersede any provision of the general or any local law relative to meetings of registrars. It is my opinion that this subsection means only that §17-4-49 should not limit or interfere with other provisions of law dealing with the meetings of registrars, e.g. Act No. 951. It is clear that the legislative intent **in passing** §17-4-49, supra, was to require boards of registrars to visit colleges or universities for at least one day, this being **in addition** to those days already prescribed by law for the meetings of registrars.

I trust this satisfactorily answers your question. If I can be of any further assistance, do not hesitate to let me know.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

March 23, 1978

Dr. Wayne Teague
State Superintendent of Education
State of Alabama
Department of Education
State Office Building
Montgomery, Alabama 36130

Education Department—Exceptional Children
Responsibility of local school systems under P. L.

94-142 and **Code of Alabama 1975**, §16-39-1 et seq. to children with vision problems discussed.
Opinion by Assistant Attorney General Hatcher.

Dear Doctor Teague:

We are in receipt of your request for an advisory opinion concerning the above-captioned matter. Specifically, you asked the following question:

> "What is the responsibility of the local school system according to Public Law 94-142 and Act 106 after a possible vision problem has been identified when said screening procedure was carried out either by a local school system or under its jurisdiction?"

The threshold question to be answered at this stage of the evaluation process is whether or not the identified vision problem is of such severity as to entitle the child to special education and related services. This question may in many cases only be answered with the assistance of qualified medical consultants. If it is answered in the negative, the only responsibility resting with local school officials is that of informing the child's parents of the vision problem so that they can take steps to correct same. Local school systems are not required under the law to provide glasses for each and every child with a vision problem. Conversely, if the child is found to be visually handicapped and other screening techniques indicate that the handicap significantly reduces the child's scholastic ability, P.L. 14-142 and **Code of Alabama 1975**, §16-39-1 et seq. mandate that he receive special education and related services. This may entail in some cases the purchase by local school systems of optical instruments for utilization in a special education program for a specific child.

After the evaluation process is completed, local school systems are required to make a placement decision. Again, if it is determined that the child's vision problem does not prevent him from learning, he is not entitled to special education and related services. In this instance, the child remains in the regular class, and there is no need for a placement decision to be made. If the child is visually handicapped and that handicap prevents him from learning, he is entitled to special education and related services. Local school officials are required to either place him in a special class, or have a special program designed for him carried out in the regular classroom or another appropriate setting as the case may be.

The law requires that some time prior to placing a child in a special class, or the carrying out of a special program for him in another setting, local school officials must develop a written in individualized education program for the child affected, setting forth, among other things, his particular learning disability, his academic deficiencies, and what short-term goals are expected and attempted under the placement made.

Outlined above is the procedure to be utilized by local school systems when confronted with the problem of what to do with a child when a vision problem in terms of special education. However, there is much more involved in this whole process. Chiefly, local school officials must know what the law requires them to allow the child affected and his parents to participate in all levels of this process (e.g. evaluation, placement, etc.). As well, the child and his parents have been granted certain due process rights, which afford them standing to object to all or any portion of the evaluation and placement stages, and the right to receive an impartial hearing on any objection raised by them. Further, if the parents of a child found to be in need of special education and related services object to that assessment, they are entitled to an independent educational evaluation of the child. The above are just a few of the elements involved in this whole process, and are cited only as illustrations.

The remaining requirement of these laws to be discussed is the provision of instructional aids and equipment by local school systems for children with learning disabilities. Once a placement is made, local school systems must use money made available to them for special education purposes, to purchase, or otherwise secure the use of, devices which will enable children with learning disabilities to achieve that degree of educational excellence of which they are capable. Illustrative, is **Code of Alabama 1975,** §16-39-10, which authorizes the use of state funds to purchase and distribute instructional aids and equipment when and where necessary. Various courts have said that the cost of such aids and equipment cannot be used as an excuse for not providing an appropriate education for each and every special child when federal funds are being received under P.L. 94-142. It is imperative, therefore, that local school systems acquire whatever instructional aids and equipment needed to educate special children in order to comply with state and federal law.

We hope that this opinion sufficiently answers your inquiry. As you know, the field of special education has become extremely complexed with the passage of P.L. 94-142. We therefore invite specific questions on the subject so that we can accurately and definitively advise you and local school systems as to the state of the law.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

March 29, 1978

Honorable Allen L. Tapley
Administrative Director of Courts
Department of Court Management
817 South Court Street
Montgomery, Alabama

Compensation--Circuit Clerks and Registers

Circuit Clerks and Registers are entitled to receive the cost of living increase under Act No. 601, Acts of Alabama 1977.

Opinion by Assistant Attorney General Petree.

Dear Mr. Tapley:

This office is in receipt of a request for an opinion from your predecessor in office, Mr. Charles Cameron, relating to whether circuit clerks and registers are entitled to receive the cost of living increase granted to State employees by the provisions of Act No. 601, Acts of Alabama 1977.

This office has previously stated that personnel in the judicial branch are entitled to this cost of living increase, an employee benefit, according to the provisions of **Code of Alabama 1975,** §12-1-15(a) which provides:

> "any justice, judge, officer, official or employee of the judicial branch of government including retired supernumerary justices, judges, or employees, other than probate and municipal court judges and employees, shall be entitled to any and all employee benefits to which other state employees, officers or officials on active duty status are entitled. . . ."

Without question, circuit clerks and registers fall within the provisions of section 12-1-15(a) and are also entitled to receive the same employee benefit.

Although Amendment 92 of the Alabama Constitution (the Boutwell Amendment) prohibits an increase or decrease in compensation during the fixed term of an elected state or county officer, there are several amendments to the Constitution enacted since the Boutwell Amendment[1] which would permit an increase in compensation during the term of circuit clerks and registers in particular counties. Thus, the Boutwell Amendment would not apply to postpone the salary increase until the next term of the clerks and registers to which these amendments apply. **Almon v. Morgan County,** 245 Ala. 241, So.2d 511 (1944).

The circuit clerks and registers to whom these amendments do not apply are nevertheless entitled to received the cost of living increase since the Boutwell Amendment allows an entire class to become eligible for a pay increase whenever one member of the class receives an increase in salary. See **Pruett v. Deloney,** 289 Ala. 578, 269 So.2d 109 (1972).

Accordingly, it is my opinion that all clerks and registers of the

[1]See attached list of pertinent amendments

circuit courts were entitled to receive the 7½ percent cost of living increase October 31, 1977, the effective date of §12-1-15(a).

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

Attachment

AMENDMENTS ENACTED SINCE THE BOUTWELL AMENDMENT

Amendment 103	Chambers County
Amendment 127	Walker County
Amendment 134	DeKalb County
Amendment 135	Madison County
Amendments 136 & 144	Colbert County
Amendment 137	Cullman County
Amendment 138	Dallas County
Amendment 241	Lauderdale County
Amendment 249	Shelby County
Amendment 297	Tallapoosa County
Amendment 321	Lawrence County
Amendments 331 & 347	Cleburne County
Amendment 332	Bibb County
Amendment 345	Coosa County
Amendment 349	Washington County
Amendment 353	Butler County
Amendment 359	Clay County
Amendment 360	Coffee County
Amendment 362	Lee County

There exists a proposed amendment for Jackson County

INFORMAL OPINIONS

During the period January 1, 1978 through March 31, 1978, the Attorney General rendered the following informal opinions.

Subject	Addressee	Date	File
	— A —		
ABC BOARD			
ABC Board—Alcoholic Beverages—Search and Seizures	T. Jeff Davis	Mar. 8	ABC Board
ABC Board—Advertising	T. Jeff Davis	Mar. 24	ABC Board
"Near Beer"—ABC Board	T. Jeff Davis	Jan. 4	ABC Board
ABC Officers—Search Warrants	Glen Demastus	Jan. 25	76
ABC Board—Rental Contracts	T. Jeff Davis	Feb. 27	ABC Board
Beer Tax—City of Oxford	B. A. Adams, Jr.	Feb. 14	100
AD VALOREM			
Reappraisal Expenses—Should be Prorated—Ad Valorem	Louis C. Rutland	Jan. 11	52
Ad Valorem—Tax Collector Error—No Late Charge	Aileen Blow	Jan. 11	62
Mileage Rate—Class III Property	Nathan Mathis	Jan. 4	88
Ad Valorem—Exemptions	John Napier	Jan. 24	112
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ABC Board—Advertising	T. Jeff Davis	Mar. 24	ABC Board
AGRICULTURE			
Truck Weight Limits—Highways	Julian Bland	Jan. 4	213

ALABAMA PUBLIC TELEVISION NETWORK			
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ABC Board—Alcoholic Beverages—Search and Seizures	T. Jeff Davis	Mar. 8	ABC Board
"Near Beer"—ABC Board	T. Jeff Davis	Jan. 4	ABC Board
Beer Tax—City of Oxford	B. A. Adams	Feb. 14	100
Uniform Traffic Citation Act—DWI	Guy F. Gunter, III	Feb. 15	102
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City Council Ordinances—Employment	A. J. Price	Jan. 25	84
AMBULANCE SERVICE			
Marshall County—Ambulance Service	Hoyt Levie	Jan. 30	92
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Bullock County Ambulance Service—Exemptions	Don Priori	Feb. 28	39
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Rabies Control Law—Tuscaloosa County	Steve Ledbetter	Mar. 22	223
Humane Shelter—County Must Provide	Steve Ledbetter	Mar. 20	223
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Annexation—Municipality	Jean Starkley	Feb. 9	106
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Subject	Addressee	Date	File
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AUDITOR'S OFFICE			
State Property—Inventory	Bettye Frink	Feb. 2	Auditor's Office
AUTOMOBILES			
Use of county vehicles 24 hours per day permitted—Automobiles—Ethics	Julian D. Butler	Jan. 9	26
— B —			
BANKING DEPARTMENT			
Real Estate Broker's License—Mini-Code	Charles S. Blackledge	Jan. 31	Banking Dept.
Banking Department—Enforcement of Mini-Code	D. M. Mitchell	Jan. 30	Banking Dept.
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Battleship Commission—Retirement Systems	David G. Bronner	June 16	Retirement Systems
BIRMINGHAM, CITY OF			
Birmingham City Council—Vacancy	Nina Miglionico	Mar. 16	121
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BULLOCK COUNTY			
Reappraisal Expenses—Should Be Prorated—Ad Valorem	Louis C. Rutland	Jan. 11	52
Bullock County Ambulance Service—Exemptions	Don Priori	Feb. 28	39
— C —			
CALHOUN COUNTY			
County Commissioner—Purchasing Agent	Walter J. Merrill	Feb. 10	30

Subject	Addressee	Date	File
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CIRCUIT JUDGES			
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CIVIL SERVICE			
Civil Service Board—Must Use County Attorney	Roscoe Simmons	Feb. 27	122
Former City Employee—Reinstatement	David E. Lee	Feb. 24	142
CLERKS AND REGISTERS			
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CONSERVATION DEPARTMENT			
Law Enforcement Officers—Subsistence Allowance Provided For	John W. Hodnett	Jan. 27	Conservation Dept.
Conservation Department—Lump Sum Payments	John W. Hodnett	Jan. 27	Conservation Dept.
Conservation Department—Trespassing	Hugh A. Swingle	Feb. 15	Conservation Dept.
CONTRACTS			
Competitive Bids—Municipalities	Fred G. Collins	Mar. 14	48
County Commissions—Contracts	James W. Webb	Jan. 26	154
Change Orders—10% of Cost	Asa N. Green	Jan. 18	67
Contracts—School Construction	James R. Allen	Jan. 23	69

Subject	Addressee	Date	File
ABC Board—Rental Contracts	T. Jeff Davis	Feb. 27	ABC Board
Utilities Board—Office Space	Donald F. Colquett	Feb. 24	115
CORONER			
Assistant District Attorney—Coroner	John S. Andrew	Feb. 21	153
CORPORATIONS			
Corporation—Sales Tax Act	Charles A. Boswell	Feb. 6	Revenue
CORRECTIONS, BOARD OF			
Good Time Credit—Exceptional Inmate	Judson C. Locke	Feb. 10	Bd. of Corr.
COSTS AND FEES			
Court Management—Judicial Article—Clerks and Registers—Costs and Fees	Allen L. Tapley	Jan. 4	Court Mgt.
Condemnation Proceedings—Fees	Maury Friedlander	Mar. 27	125
Attorney Fees—Juvenile Proceedings	George White	Feb. 2	180
COUNCILMEMBERS			
Municipalities—Compensation for Councilmember	Dewitt Garrett	Feb. 9	83
COUNTIES			
Education—Counties—Salaries	Randy Quinn	Jan. 25	361
Sheriffs—Fayette County—Dual Officeholding	Melba Henry	Mar. 30	384
County Commissions—Tort Liability	Idas Neal	Jan. 4	217
Humane Shelters—County Must Provide	Steve Ledbetter	Mar. 20	223
Milage Rate—Class III Property	Nathan Mathis	Jan. 4	88
Board of Registrars—Office Space	Opal Adams	Feb. 16	99
Attorney Fees—Juvenile Proceedings	George White	Feb. 2	180

County may not terminate benefits—Social Security	Edwin A. Strickland	Apr. 4	72
County Commissioner—Purchasing Agent	Walter J. Merrill	Feb. 10	30
County Offices—Outside Courthouse	Bethel Starkey	Jan. 11	110
Shelby County—Humane Shelter	Frank C. Ellis, Jr.	Mar. 23	117
No Exemption from Barber Law—Barbers—Legislation	Ray McDaniel	Mar. 30	281
Use of County vehicles 24 hours per day permitted—Automobiles—Ethics	Julian D. Butler	Jan. 9	26
Saint Clair County Commission—Travel Expense	James S. Satterfield	Feb. 17	81
COURT MANAGEMENT			
Court Management—Judicial Article—Clerks and Registers—Costs and Fees	Allen L. Tapley	Jan. 4	Court Mgt.
COURT REPORTERS			
Salary—Court Reporter	Jack W. Wallace	Jan. 9	104
COURTS			
Juvenile Court Judge—Authority to Determine Paternity	William H. Lumpkin	Feb. 9	55
CREDIT UNIONS			
Banking Department—Enforcement of Mini-Code	D. M. Mitchell	Jan. 30	Banking Dept.
CRENSHAW COUNTY			
Solid Waste Disposal—Conflicts of Interest	Alton L. Turner	Jan. 10	60
CULLMAN COUNTY			
Supernumerary Tax Collector—Expense Allowance	Jewell S. Davis	Jan. 23	214

Subject	Addressee	Date	File
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DeKALB COUNTY			
Competitive Bid Law—DeKalb County	A. M. Bailey	Mar. 14	219
DISTRICT ATTORNEYS			
Assistant District Attorney—Retirement System	Henry J. Kinzer	Jan. 9	82
Solicitors Fund—Madison County Commission	Julian D. Butler	Mar. 1	26
Assistant District Attorney—Coroner	John S. Andrews	Feb. 21	153
District Attorneys—Funds	John D. Whetstone	Jan. 5	Prosecution Services
Legislature—Appropriations—District Attorneys	John D. Whetstone	Jan. 30	Prosecution Services
DUAL OFFICEHOLDING			
Sheriffs—Fayette County—Dual Officeholding	Melba Henry	Mar. 30	384
Water Works Board Superintendent—Also Street Superintendent	N. L. Plunkett	Jan. 30	105
	— E —		
EDUCATION			
Boards of Education—Corporate Authority	Wayne Teague	Feb. 16	Education Dept.
Exemptions—Religious Schools	E. C. Stephens	Feb. 1	Education Dept.
Schools—Students Vision Problems	Wayne Teague	Mar. 23	Education Dept.
Education—Counties—Salaries	Randy Quinn	Jan. 24	361

ELECTIONS			
Hale County—Boards of Registrars—Elections	Sue W. Seale	Jan. 13	335
Fire Districts—Shelby County	Frank C. Ellis	Mar. 13	117
Birmingham City Council	Nina Miglionico	Mar. 16	121
Judges—Reelection	John M. Karrh	Feb. 21	128
EMINENT DOMAIN			
Eminent Domain—University of North Alabama	Bob Hill	Mar. 30	124
EMPLOYMENT, EMPLOYERS AND EMPLOYEES			
City Council Ordinances—Employment	A. J. Price	Jan. 25	84
Municipal Employee—Attorney Fees	Willard Pienezza	Feb. 1	113
Mobile County—Insurance	Maury Friedlander	Mar. 14	125
Former City Employee—Reinstatement	David E. Lee	Feb. 24	142
Police Chief—Attorney Fees	Perry C. Roquemore, Jr.	Jan. 11	150
ETHICS			
Use of County vehicles 24 hours per day permitted—Automobiles—Ethics	Julian D. Butler	Jan. 9	26
EXCEPTIONAL CHILDREN			
Schools—Students Vision Problems	Wayne Teague	Mar. 23	Education Dept.
EXEMPTIONS			
Ad Valorem—Exemptions	John Napier	Jan. 24	112
Bullock County Ambulance Service—Exemptions	Don Priori	Feb. 28	39

Subject	Addressee	Date	File
EXPENSES			
Expenses—Judicial System Study Commission	C. C. Torbert, Jr.	Jan. 30	165
Saint Clair County Commission—Travel Expense	James S. Satterfield	Feb. 17	81
Salary—Court Reporter	Jack W. Wallace	Jan. 9	104
City Prisoners—County Jail	F. D. Gray	Mar. 16	7
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FARMERS HOME ADMINISTRATION			
FHA—Office Space	W. Robert Spears	Oct. 10	295
FEES			
Polygraph Examiners—Licenses—Fees	Cecil L. Johnston	Mar. 3	Polygraph Exam. Board
FIRE DISTRICTS			
Fire Districts—Shelby County	Frank C. Ellis	Mar. 13	117
FIRE FIGHTERS			
Privacy Act—Firefighters	Price E. Robinson	Jan. 25	Firefighters Personnel Standards
FUNDS			
Uniform Allowance—State Docks Guards	Jerry R. Tew	Jan. 30	87
City Cannot Provide—Christmas Dinner	Jane Phillips	Jan. 3	85
Solicitors Fund—Madison County Commission	Julian D. Butler	Mar. 1	26
Board of Registrars—Office Space	Opal Adams	Feb. 16	99

Youth Service Department—Children's Fund	George M. Phyfer	Feb. 7	Youth Services
Sales or Use Taxes—Public School Operation	Don Walker	Jan. 18	118
County Commissions—Tort Liability	Idas Neal	Jan. 4	217
Municipality—Contract with Association for Retarded Citizens	W. C. Brady, Jr.	Mar. 24	221

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GAMING AND LOTTERIES

Sales Promotion—Legal	Eric O. Cates	Feb. 28	96

GASOLINE FUND

Gasoline Taxes—Special Census	Thomas A. Snowden, Jr.	Jan. 30	77
Gasoline Tax Funds—Randolph County	Stell Benefield	Mar. 20	120

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HISTORIAN

County Historian—Custodian of County Records	Fred D. Gray	Feb. 9	7

HOSPITALS

Marshall County—Ambulance Service	Hoyt Levie	Jan. 30	92
Hospital's Liability—Out-Patients	Donny P. Myers	Feb. 8	187

HOUSTON COUNTY

Ad Valorem—Exemptions	John Napier	Jan. 24	112

HUMANE SOCIETY

Shelby County—Humane Shelter	Frank C. Ellis	Mar. 23	117

Subject	Addressee	Date	File
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INDUSTRIAL DEVELOPMENT BOARDS			
Industrial Development Board—Grant to Industrial Site	Phillip H. Smith	Mar. 2	107
Counties—Industrial Development Board	John H. Armstrong	Mar. 24	127
INDUSTRIAL PARK			
Industrial Park—Leases	Johnny Mott	Jan. 4	63
INSURANCE			
Insurance—Punitive Damage	Charles H. Payne	Feb. 1	Ins. Dept.
Mobile County—Insurance	Maury Friedlander	Mar. 14	125
Municipal Judge—City Insurance Program	Johnny Mott	Jan. 19	63
Pre-Paid Legal Services not Insurance—Insurance—Legal Services	Larry Kenner	Jan. 8	231
INVENTORY			
State Property—Inventory	Bettye Frink	Feb. 2	Auditors Office
	— J —		
JACKSONVILLE, CITY OF			
Former City Employee—Reinstatement	David E. Lee	Feb. 24	142
JUDGES			
Judicial Article—Judges Salaries	Albert McDonald Fred Zeigler	Jan. 11	68
Judges—Reelection	John M. Karrh	Feb. 21	128
Municipal Judge—City Insurance Program	Johnny Mott	Jan. 19	63

JUDICIAL ARTICLE			
Circuit Judges—Compensation	Allen L. Tapley	Jan. 18	Court Mgt.
Court Management—Judicial Article—Clerks and Registers—Costs and Fees	Allen L. Tapley	Jan. 4	Court Mgt.
Judicial Article—Judges Salaries	Albert McDonald Fred Zeigler	Jan. 11	68
Juvenile Court Judge—Authority to Determine Paternity	William H. Lumpkin	Feb. 9	55
Assistant District Attorney—Retirement System	Henry J. Kinzer	Jan. 9	82
Municipal Recorder—Dual Officeholding	James D. Evans	Jan. 2	53
District Attorneys—Funds	John D. Whetstone	Jan. 5	Prosecution Services
JUDICIAL SYSTEM STUDY COMMISSION			
Expenses—Judicial System Study Commission	C. C. Torbert, Jr.	Jan. 30	165
JURORS AND JURIES			
Grand Jury Service—Mental Health Center Employees	Jerry A. Lovett	Jan. 17	194
Juror Pay	Joseph C. McCorquodale	Mar. 27	322
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LABOR UNIONS			
Labor Unions—Municipalities—Public Employees May Not Strike	C. F. Ballenger	Jan. 12	61
LAW ENFORCEMENT	John W. Hodnett	Jan. 27	
Law Enforcement Officer—Subsistence Allowance Provided For			Conservation Dept.

Subject	Addressee	Date	File
LEASES			
Industrial Park—Leases	Johnny Mott	Jan. 4	63
Industrial Development Board—Grant to Industrial Site	Phillip H. Smith	Mar. 2	107
LEGAL SERVICES			
Pre-Paid Legal Services Not Insurance—Insurance—Legal Services	Larry Kenner	Jan. 8	231
LEGISLATION			
Pave Private Driveways—Unconstitutional	Marilyn Quarles	Feb. 14	101
No Exemption from Barber Law—Barbers—Legislation	Ray McDaniel	Mar. 30	281
LIABILITY			
Insurance—Punitive Damages	Charles H. Payne	Feb. 1	Insurance Dept.
Hospital's Liability—Out-Patients	Donny P. Myers	Feb. 8	187
County Commissions—Tort Liability	Idas Neal	Jan. 4	217
LICENSES AND PERMITS			
Licensing—Real Estate Commission	Mary L. Goodwin	Feb. 1	Real Estate Comm.
Water Improvement Commission—Permit System	James W. Warr	Feb. 22	WIC
Real Estate Broker's License—Mini-Code	Charles S. Blackledge	Jan. 31	Banking Dept.
Polygraph Examiners—Licenses and Fees	Cecil L. Johnston	Mar. 3	Polygraph Exam. Board
Motor Vehicle—License Tag	R. J. Stembridge	Mar. 17	199

LICENSES AND PERMITS			
Real Estate Commission—Licensure	Mary L. Goodwin	Mar. 15	Real Estate Comm.
Motor Vehicles—License Tag Decals	Glenn M. Smitherman	May 18	239
— M —			
MACON COUNTY			
County Historian—Custodian of County Records	Fred D. Gray	Feb. 9	7
Marshall County—Ambulance Service	Hoyt Levie	Jan. 30	92
MAYORS			
Municipalities—Compensation for Councilmember	Dewitt Garrett	Feb. 9	83
MEDICAL EXAMINERS, BOARD OF			
Board of Nursing—Regulations	Betty Tomlin	Mar. 2	Nursing Bd.
MENTAL HEALTH DEPARTMENT			
Grand Jury Service—Mental Health Center Employees	Jerry A. Lovett	Feb. 17	194
MERIT SYSTEMS			
Social Work Examiners Board—Confidential Assistant	Betty C. Glasscock	Jan. 12	215
MINI-CODE			
Banking Department—Enforcement of Mini-Code	D. M. Mitchell	Jan. 30	Banking Dept.

Subject	Addressee	Date	File
MOBILE COUNTY			
Mobile County—Insurance	Maury Friedlander	Mar. 14	125
Expense Allowances—County Boards of Education	Dan C. Alexander	Apr. 4	156
MOTOR VEHICLES			
Motor Vehicle—License Tag	R. J. Stembridge	Mar. 17	199
MUNICIPALITIES			
Municipal Funds—Spouse Expenses on Business Trips	Samuel Maples	Jan. 3	212
Public Street—Right-of-Way	Joe R. Evans	Jan. 17	211
Municipal Judge—City Insurance Program	Johnny Mott	Jan. 19	63
Salem, Town of—Corporate Organization	Carl E. Maye	Feb. 9	218
Labor Unions—Municipalities—Public Employees May Not Strike	C. F. Ballenger	Jan. 12	61
Industrial Park—Leases	Johnny Mott	Jan. 4	63
Annexation—Qualified Electors	Tim Hamilton	Jan. 9	90
City Cannot Provide—Christmas Dinner	Jane Phillips	Jan. 3	85
City Council Ordinances—Employment	A. J. Price	Jan. 25	84
Municipalities—Compensation for Councilmember	Dewitt Garrett	Feb. 9	83
Leases—Boards of Education	Fred S. Sides	Feb. 23	95
Contracts—Negotiated	Brenda Kirk	Feb. 23	91
Sales Promotion—Legal	Eric O. Cates, Jr.	Feb. 28	96
Annexation—Municipality	Jean Starkley	Feb. 9	106
Uniform Traffic Citation Act—DWI	Guy F. Gunter, III	Feb. 15	102
Water Works Board Superintendent—	N. L. Plunkett	Jan. 30	105

Also Street Superintendent			
Municipal Employee—Attorney Fees	Willard Pienezza	Feb. 1	113
Utilities Board—Office Space	Donald F. Colquett	Feb. 24	115
Birmingham City Council—Vacancy	Nina Miglionico	Mar. 16	121
Police Chief—Attorney Fees	Perry C. Roquemore, Jr.	Jan. 11	150
Phenix City—Zoning	John Storey	Jan. 10	161
Councilman—May Not Be On Utility Board	Ted Boyette	Jan. 9	216
Municipalities—Enforcement of Building Code	Burwell L. Wilbanks	Mar. 14	220
Municipalities—Contract with Association for Retarded Citizens	W. C. Brady, Jr.	Mar. 24	221
City Council—Vacancy	Al Tidwell	Mar. 6	222
Competitive Bids—Municipalities	Fred G. Collins	Mar. 14	48
Legal Responsibility of Custody of Prisoners—Sheriffs—Prisons and Prisoners	James C. Parsons	Jan. 10	334
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NURSING, BOARD OF			
Board of Nursing—Regulations	Betty Tomlin	Mar. 2	Nursing Bd.
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OFFICERS AND OFFICES			
County Offices—Outside Courthouse	Bethel Starkey	Jan. 11	110
City Council—Vacancy	Al Tidwell	Mar. 6	222
OPINIONS OVERRULED OR MODIFIED			
Municipal Recorder—Dual Officeholding	James D. Evans	Jan. 2	53
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PARKS AND RECREATION BOARD			
Colbert County—Bond Issue	Bruce Gargis	Mar. 20	29

Subject	Addressee	Date	File
PATERNITY			
Juvenile Court Judge—Authority to Determine Paternity	William H. Lumpkin	Feb. 9	55
PERSONNEL			
Conservation Department—Lump Sum Payments	John W. Hodnett	Jan. 27	Conservation Dept.
PIKE COUNTY			
Pike County—Highway Construction	Billy G. Henderson	Feb. 27	114
POLYGRAPH EXAMINERS BOARD			
Polygraph Examiners—Licenses and Fees	Cecil L. Johnston	Mar. 3	Polygraph Exam. Bd.
PRISONS AND PRISONERS			
Good Time Credit—Exceptional Inmate	Judson C. Locke	Feb. 10	Bd. of Corrections
City Prisoners—County Jail	F. D. Gray	Mar. 16	7
Legal Responsibility of Custody of Prisoners—Sheriffs—Prisons and Prisoners	James C. Parsons	Jan. 10	334
PRIVACY ACT			
Privacy Act—Firefighters	Price E. Robinson	Jan. 25	Firefighters Personnel Standards
PROBATE OFFICES			
Condemnation Proceedings—Fees	Maury Friedlander	Mar. 27	125
PROBATION OFFICERS			
Probation Officers—Civil Service Board	Guy Sparks	Jan. 30	155

PROPERTY			
Unused Property—School Board May Sell	A. R. McVay	Jan. 25	89
Real Estate Broker's License—Mini-Code	Charles S. Blackledge	Jan. 31	Banking Dept.
PROSECUTION SERVICES, OFFICE OF			
Legislature—Appropriations—District Attorneys	John D. Whetstone	Jan. 30	Prosecution Services
PUBLIC MEETINGS			
County Board of Education—Special Meetings	Norman J. Berger	Feb. 1	86
PUBLIC RECORDS			
County Board of Education—Special Meeting	Norman J. Berger	Feb. 1	86
Altering School Board Minutes—Crime	Thomas R. Shelton	Mar. 30	31
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RANDOLPH COUNTY			
Gasoline Tax Funds—Randolph County	Stell Benefield	Mar. 20	120
REAL ESTATE COMMISSION			
Licensing—Real Estate Commission	Mary L. Goodwin	Feb. 1	Real Estate Comm.
Real Estate Commission—Licensure	Mary L. Goodwin	Feb. 22	Real Estate Comm.
Real Estate Commission—Licensure	Mary L. Goodwin	Feb. 15	Real Estate Comm.
REAPPRAISAL			
Reappraisal Expenses—Should Be Prorated—Ad Valorem	Louis C. Rutland	Jan. 11	52

Subject	Addressee	Date	File
RECORDERS COURT			
Municipal Recorder—Dual Officeholding	James D. Evans	Jan. 2	53
REFUNDS			
Refunds—Tax Sales	E. W. Enslen W. J. Johnston	Jan. 6	59
RESIDENCY			
Real Estate Commission—Licensure	Mary L. Goodwin	Feb. 22	Real Estate Comm.
RETIREMENT			
Sheriffs—Retirement Deductions	David L. Burt	Feb. 9	43
RETIREMENT SYSTEMS			
Assistant District Attorney—Retirement System	Henry J. Kinzer	Jan. 9	82
Retirement Systems—Employee Contribution	Thornton Fleming	Jan. 5	210
REVENUE DEPARTMENT			
Corporation—Sales Tax Act	Charles A. Boswell	Feb. 6	Revenue
Losses—Carry Forward—Carry Back	Charles A. Boswell	Feb. 6	Revenue
REVENUE SHARING FUNDS			
Gasoline Tax Funds—Randolph County	Stell Benefield	Mar. 20	120
ROADS, HIGHWAYS AND BRIDGES			
Pave Private Driveways—Unconstitutional	Marilyn Quarles	Feb. 14	101
Pike County—Highway Construction	Billy G. Henderson	Feb. 27	114
Public Street—Right-of-Way	Joe R. Evans	Jan. 17	211
Truck Weight Limits—Highways	Julian Bland	Jan. 4	213

SALARIES			
Judicial Article—Judges Salaries	Albert McDonald Fred Zeigler	Jan. 11	68
Municipalities—Compensation for Councilmember	Dewitt Garrett	Feb. 9	83
Education—Counties—Salaries	Randy Quinn	Jan. 25	361
SALEM, TOWN OF			
Salem, Town of—Corporate Organization	Carl E. Maye	Feb. 9	218
SCHOOLS			
Change Orders—10% of Cost	Asa N. Green	Jan. 18	67
Contracts--School Construction	James R. Allen	Jan. 23	69
Unused Property—School Board May Sell	A. R. McVay	Jan. 25	89
Exemptions—Religious Schools	E. C. Stephens	Feb. 1	Educ. Dept.
City Board of Education—Superintendent	Thomas R. Shelton	Mar. 23	31
SEARCH AND SEIZURES			
ABC Officers—Search Warrants	Glen Demastus	Jan. 25	76
ABC Board—Alcoholic Beverages—Searches and Seizures	T. Jeff Davis	Mar. 8	ABC Board
SHELBY COUNTY			
Gasoline Taxes—Special Census	Thomas A. Snowden, Jr.	Jan. 30	77
Zoning—Shelby County	J. T. Waggoner, Jr.	Mar. 3	111
Shelby County—Humane Shelter	Frank C. Ellis	Mar. 23	117
Fire Districts—Shelby County	Frank C. Ellis	Mar. 13	117
SHERIFFS			
Councilman May Not Serve As Deputy	Melba Henry	Mar. 30	384

Subject	Addressee	Date	File
Sheriff—Sheriffs—Counties— Dual Officeholding			
Sheriffs—Retirement Deductions	David L. Burt	Feb. 9	43
Legal responsibility of Custody of Prisoners—Sheriffs—Prisons and Prisoners	James C. Parsons	Jan. 10	334
SMALL CLAIMS COURT			
Small Claims Court—Collections	Harold Cannon	Feb. 16	355
SOCIAL WORK EXAMINERS BOARD			
Social Work Examiners Board— Confidential Assistant	Betty C. Glasscock	Jan. 12	215
SOLICITORS FUND			
Solicitors Fund—Madison County Commission District Attorneys—Funds	Julian D. Butler	Mar. 1	26
SOLID WASTE DISPOSAL			
Solid Waste Disposal—Conflicts of Interest	Alton L. Turner	Jan. 10	60
STATE CHEMIST			
Attorney General—Appoints State Toxicologist	C. J. Rehling	Feb. 17	Toxicology Board
STATE DOCKS DEPARTMENT			
Uniform Allowance—State Docks Guards	Jerry R. Tew	Jan. 30	87
STATE PROPERTY			
State Property—Inventory	Bettye Frink	Feb. 2	Auditors Office

SAINT CLAIR COUNTY			
Saint Clair County Commission—Travel Expense	James S. Satterfield	Feb. 17	81
Pave Private Driveways—Unconstitutional	Marilyn Quarles	Feb. 14	101
SUBSISTENCE ALLOWANCE			
Law Enforcement Officers—Subsistence Allowance Provided For	John W. Hodnett	Jan. 27	Conservation Dept.
SUNSHINE LAW			
County Board of Education—Special Meetings	Norman J. Berger	Feb. 1	86
SUPERNUMERARY STATUS			
Supernumerary Tax Collector—Expense Allowance	Jewell S. Davis	Jan. 23	214
SURFACE MINING RECLAMATION COMMISSION			
Surface Mining Reclamation Commission—Ethics Regulations	Thomas G. Walker, Jr.	Feb. 14	SMRC
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TAX ASSESSOR			
Supernumerary Tax Collector—Expense Allowance	Jewell S. Davis	Jan. 23	214
County Not Required to Finance Clerical Help—Tax Collectors—Tax Assessors	Elva Roberts	Jan. 27	331

Subject	Addressee	Date	File
TAXATION			
Mileage Rate—Class III Property	Nathan Mathis	Jan. 4	88
Beer Tax—City of Oxford	B. A. Adams	Feb. 14	100
Corporation Sales Tax Act	Charles A. Boswell	Feb. 6	Revenue
Losses—Carry Forward—Carry Back	Charles A. Boswell	Feb. 6	Revenue
TAX COLLECTOR			
Ad Valorem—Tax Collector Error—No Late Charge	Aileen Blow	Jan. 11	62
County Not Required to Finance Clerical Help—Tax Collectors—Tax Assessors	Elva Roberts	Jan. 27	331
TAX SALES			
Refunds—Tax Sales	E. W. Enslen W. J. Johnston	Jan. 6	59
TEACHERS			
Teachers Sick Leave—Adopted Children	Wayne Teague	Feb. 16	Education Dept.
Teachers—Sick Leave	Joseph B. Morton	Mar. 2	133
TEAR GAS DEVICES			
Tear Gas—Possession	Hugh Allen	Mar. 24	32
TOXICOLOGY BOARD			
Attorney General—Appoints State Toxicologist	D. J. Rehline	Feb. 17	Toxicology Board
TRESPASSING			
Conservation Department—Trespassing	Hugh A. Swingle	Feb. 15	Conservation Dept.

TRUCK WEIGHT LAW			
Truck Weight Limits—Highways	Julian Bland	Jan. 4	213
TUSCALOOSA COUNTY			
Rabies Control Law—Tuscaloosa County	Robert H. Johnston	June 22	163
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UNIFORM TRAFFIC CITATION ACT			
Uniform Traffic Citation Act—DWI	Guy Gunter, III	Feb. 15	102
UTILITIES			
Council'man—May Not Be On Utilities Board	Ted Boyette	Jan. 9	216
UTILITY BOARDS			
Utilities Board—Office Space	Donald F. Colquett	Feb. 24	115
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VITAL STATISTICS			
Vital Statistics Registrars—Board of Registrars	Ann Bell	Mar. 21	73
VOTER REGISTRATION			
Voter Registration—College Student	Clarence Nance	Mar. 15	116
Voter Registration—Application	Ann Bell	Mar. 15	73
Vital Statistics Registrars—Board of Registrars	Ann Bell	Mar. 21	73
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WARRANTS			
ABC Officers—Search Warrants	Glen Demastus	Jan. 25	76

Subject	Addressee	Date	File
WASHINGTON COUNTY			
Counties—Industrial Development Board	John H. Armstrong	Mar. 24	127
WATER IMPROVEMENT COMMISSION			
Water Improvement Commission—Permit System	James W. Warr	Feb. 22	WIC
— Y —			
YOUTH SERVICE DEPARTMENT			
Youth Service Department—Children's Fund	George M. Phyfer	Feb. 7	Youth Services
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ZONING			
Zoning—Shelby County	J. T. Waggoner, Jr.	Mar. 3	111
Phenix City—Zoning	John Storey	Jan. 10	161